

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANTHONY COWARD,

Plaintiff,

-against-

SARGENT JACKSON, et al.,

Defendants.

23-CV-7261 (LTS)

ORDER DIRECTING ORIGINAL
SIGNATURE, PAYMENT OF FEES OR IFP
APPLICATION AND PRISONER
AUTHORIZATION

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is currently incarcerated at Sing Sing Correctional Facility, brings this action *pro se*. To proceed with a civil action in this Court, a prisoner must either pay \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee – or, to request authorization to proceed *in forma pauperis* (IFP), that is, without prepayment of fees, submit a signed IFP application and a prisoner authorization. *See* 28 U.S.C. §§ 1914, 1915. If the Court grants a prisoner’s IFP application, the Prison Litigation Reform Act requires the Court to collect the \$350.00 filing fee in installments deducted from the prisoner’s account.¹ *See* 28 U.S.C. § 1915(b)(1). A prisoner seeking to proceed in this Court without prepayment of fees must therefore authorize the Court to withdraw these payments from his account by filing a “prisoner authorization,” which directs the facility where the prisoner is incarcerated to deduct the \$350.00 filing fee from the prisoner’s account in installments and to send to the Court certified copies of the prisoner’s account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b).

Plaintiff submitted the complaint without the filing fees or a completed IFP application and prisoner authorization. Within thirty days of the date of this order, Plaintiff must either pay

¹ The \$52.00 administrative fee for filing a civil action does not apply to persons granted IFP status under 28 U.S.C. § 1915.

the \$402.00 in fees or submit the attached IFP application and prisoner authorization. If Plaintiff submits the IFP application and prisoner authorization, they should be labeled with docket number 23-CV-7261 (LTS).²

Additionally, Plaintiff submitted the complaint without a signature. Rule 11(a) of the Federal Rules of Civil Procedure provides that “[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney’s name – or by a party personally if the party is unrepresented.” *See also* Local Civil Rule 11.1(a). The Supreme Court has interpreted Rule 11(a) to require “as it did in John Hancock’s day, a name handwritten (or a mark handplaced).” *Becker v. Montgomery*, 532 U.S. 757, 764 (2001). Plaintiff is directed to resubmit the signature page of the complaint with an original signature to the Court within thirty days of the date of this order. A copy of the signature page is attached to this order.

No answer shall be required at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk’s Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

² Plaintiff is cautioned that if a prisoner files a federal civil action or appeal that is dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, the dismissal is a “strike” under 28 U.S.C. § 1915(g). A prisoner who receives three “strikes” cannot file federal civil actions IFP as a prisoner, unless he is under imminent danger of serious physical injury, and he must pay the filing fees at the time of filing any new action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444–45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: August 22, 2023
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff or petitioner applying (each person must submit a separate application))

CV

() ()

-against-

(Provide docket number, if available; if filing this with your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (IFP) (without prepaying fees or costs), I declare that the responses below are true:

1. Are you incarcerated? Yes No (If "No," go to Question 2.)

I am being held at: _____

Do you receive any payment from this institution? Yes No

Monthly amount: _____

If I am a prisoner, see 28 U.S.C. § 1915(h), I have attached to this document a "Prisoner Authorization" directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. See 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. Are you presently employed? Yes No

If "yes," my employer's name and address are: _____

Gross monthly pay or wages: _____

If "no," what was your last date of employment? _____

Gross monthly wages at the time: _____

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

- (a) Business, profession, or other self-employment Yes No
(b) Rent payments, interest, or dividends Yes No

- | | | | | |
|---|--------------------------|-----|--------------------------|----|
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| (d) Disability or worker's compensation payments | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| (e) Gifts or inheritances | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| (f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.) | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |
| (g) Any other sources | <input type="checkbox"/> | Yes | <input type="checkbox"/> | No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?

5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:

6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:

7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):

8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

Declaration: I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

Dated

Signature

Name (Last, First, MI)

Prison Identification # (if incarcerated)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff/petitioner)

-against-

CV _____ () ()

(Provide docket number, if available; if filing this with your
complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

PRISONER AUTHORIZATION

By signing below, I acknowledge that:

- (1) because I filed this action as a prisoner,¹ I am required by statute (28 U.S.C. § 1915) to pay the full filing fees for this case, even if I am granted the right to proceed *in forma pauperis* (IFP), that is, without prepayment of fees;
- (2) the full \$350 filing fee will be deducted in installments from my prison account, even if my case is dismissed or I voluntarily withdraw it.

I authorize the agency holding me in custody to:

- (1) send a certified copy of my prison trust fund account statement for the past six months (from my current institution or any institution in which I was incarcerated during the past six months);
- (2) calculate the amounts specified by 28 U.S.C. § 1915(b), deduct those amounts from my prison trust fund, and disburse those amounts to the Court.

This authorization applies to any agency into whose custody I may be transferred and to any other district court to which my case may be transferred.

Date

Signature

Name (Last, First, MI)

Prison Identification #

Address

City

State

Zip Code

¹ A "prisoner" is "any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions of parole, probation, pretrial release, or diversionary program." 28 U.S.C. § 1915(h).

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated

Plaintiff's Signature

First Name

Middle Initial

Last Name

Prison Address

County, City

State

Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: _____